AMERICAN FORK
— 1853 —

"Delivering Excellence"

Office of the Mayor

February 3, 2016

Utah County Board of Adjustment
51 South University Ave. Suite 117
Provo, Utah 84601

Re: Appeal No. 1552 and 1553

Dear Board of Adjustments:

In reviewing the application, it appears that the applicant, Snowbird Ski and Summer Resort (hereinafter "Snowbird"), has chosen to take advantage of the lack of design requirements in the conditional use permit approval process. Instead of providing information which could possibly dispel the concerns of the various cities who receive water from American Fork Canyon, it has chosen to provide a minimal project plan that lacks the detail necessary to show the project will not harm the quality of water diverted to residents of Utah County. As a result, American Fork City (hereinafter the "City") is left with a number of unanswered questions regarding the affect Snowbird's project will have on the quality of its water.

Having reviewed the limited information within Snowbird's application and the numerous documents submitted thereafter, the City has developed a list of assurances it hopes to receive prior to approval of Snowbird's conditional use application. First, the City must be assured that the water quality in its springs/wells in American Fork canyon will not be degraded as a result of the project. Hydrogeologic analysis must be able to show that the City's canyon springs/wells will not be affected. The applicant has provided none.

Second, the City must be assured that the water quality of its wells in the valley fill will not be degraded. It is well known and recognized that the American Fork River acts as a major source of groundwater recharge to the valley fill aquifers. A significant flow of river water sinks from the river into the groundwater system for some distance downstream from the mouth of the canyon. Therefore, any degradation of the water quality of the American Fork River as it exits the canyon can and will degrade the water quality in the valley fill aquifers where the City's wells draw water. The applicant's minimal and deficient project plan provides no design information whatsoever on how the project will be constructed and implemented that allows the Board or the City to assess the impact of the project on the water quality of the American Fork River and the springs that feed it.

Third, the City operates a secondary water system for landscape and other irrigation within the City boundaries. The City must be assured that the water quality of the American Fork River is not degraded for irrigation and landscape use within the City.

The lack of even some preliminary design in the project plan submitted by Snowbird provides no assurance whatsoever, and certainly does not meet the preponderance of evidence standard established in section 7-20(D) of the Land Use Ordinance, that the water quality of the American Fork River and its hydrologic system will not be degraded as a result of the project.

Consequently, the City has been forced to make this detailed request that extremely important preliminary design information missing from the application be required as detailed below prior to approval of the Conditional Use permit. Or, as a much less desirable fall back, the following conditions be required to be met with full public comment and review prior to approval and issuance of the building permit.

Snowbird Expansion Conditional Use Permit Approval Conditions

1. Posting of a bond for $100 million shall be required for as long as construction and operations continue in the Mary Ellen Gulch and Mineral Basin areas and that an additional $100 million insurance policy be required prior to any construction. The bond and insurance shall be liable and used for cleanup, reimbursement, and repair of any and all injury or damages that might result to any and all resources, properties, and persons from the project developments.

2. The project shall be and remain in full compliance with all state and federal regulations, permit requirements, and approval requirements.

3. Prepare or consolidate an inventory of mines and or material associated with mining in the area of the proposed ski resort expansion. The scope of the study area should include all private and or public land that may be affected by the proposed expansion. For example if skiing, avalanche control (head, chute, and deposition areas), or summer activities would extend onto public ground, this public ground would need to be included in the inventory. Inventory should be conducted according to the State of Utah Division of Oil, Gas, and Mining and USEPA standards by a qualified expert. The inventory shall be completed prior to any construction on the expansion.

4. A four-year baseline water quality study shall be completed prior to any construction and thereafter shall be followed by an ongoing monitoring plan at and below the Mary Ellen Gulch and Mineral Basin developments to establish the base line state of the water quality during higher and lower precipitation years and ensure that such water baseline is maintained or improved downstream of the developments. The study shall obtain or consolidate baseline water quality data for all streams and/or springs that originate in the affected area, American Fork River below where they combine and upstream of Tibble Fork Reservoir. Water Quality testing shall be done in accordance with State of Utah Division of Water Quality Standards and over a period of time necessary to establish an adequate baseline which is typically two years minimum. The plan shall include ground water quality monitoring in the aquifer downstream of the mouth of American Fork River. Water quality data shall be submitted to the Division of Water Quality and available for public view.

5. The ongoing water quality plan shall be reviewed and approved by the State of Utah Division of Water Quality Watershed Management Section. The plan shall include ground water quality monitoring in the aquifer downstream of the mouth of American Fork River. Water quality data shall be submitted to the Division of Water Quality and available for public view.

6. All mines and or material associated with mining that will be affected or have the potential to be affected by the expansion shall be reclaimed according to the State of Utah R647 and applicable Federal Standards. All mines and or material associated with mining that will be affected or have the potential to be affected shall not be considered exempt from R647. Activities that could affect mines and or material associated with mining include but are not limited to avalanche control (head, chute, and deposition areas including potential damning of streams), skiing, grooming, snowmaking, construction, maintenance, summer recreation activities, etc. Reclamation work shall be completed prior to any construction on the expansion. All reclamation activities shall be conducted by a recognized and experienced contractor in the field of mine reclamation. Unless, determined to be unsafe or detrimental to the public welfare, all mine adits, mine tailings and dump piles shall be plugged and/or capped with topsoil and properly vegetated to stop and avoid erosion and to reduce the amount of water that contacts the mines and mine tailings.

7. A study and designs shall be required to control or reduce increased or higher peak runoff and/or erosion resulting from the project in any change of the ground surface or groundcover and in snowmaking activities. The study shall determine the effects of additional snow making, avalanche control and vegetation removal for ski runs on runoff, stream erosion and flooding all the way from the proposed expansion to Utah Lake along American Fork River. The applicant shall commit to specific mitigation for any potential erosion and or flooding that is acceptable to the State of Utah Division of Water Rights Stream Alteration Section and USEPA. Any reclamation efforts shall include those areas that may be affected by erosion and flooding. Any reclamation efforts shall ensure they will not be disturbed by erosion and flooding caused by the expansion. Flooding and erosion studies shall be completed prior to any construction on the expansion.

8. If any public land is expected or reasonably anticipated to be affected by the expansion or by activities associated with the expansion then that public agency shall give approval of the proposed expansion. Such approval may require environmental studies. Include areas impacted by avalanche control (head, chute, and deposition areas).

9. Prepare and commit to a contingency plan for addressing any mines and or material associated with mining encountered during construction. Plans shall include a rapid response plan and team to address immediate or eminent discharge of contaminated mine water that may be encountered during construction. Contingency plan shall conform to applicable standards of those government agencies responsible for reclamation work including the state of Utah Division of Water Quality, Division of Oil, Gas, and Mining and the USEPA. All reclamation activities shall be conducted by a recognized and experienced contractor in the field of mine reclamation.

10. Prepare and commit to a contingency plan for cleaning or mitigating any water contamination observed in the long term water quality monitoring. The plan shall be reviewed and approved by the State of Utah Division of Water Quality Watershed Management Section. The plan shall include adequate bonding, liability insurance, and indemnification.

11. A water quality contingency plan shall be developed and measures implemented on an ongoing basis to facilitate a rapid response to stop, clean, and mitigate any potential water quality problem that might arise.

12. Detailed erosion control design and construction plans shall be prepared in accordance with all state and federal standards and best management practices and such practices shall be continued and maintained as long as reasonably required.

13. No ski runs shall traverse across any mine dumps or tailings areas. Or, in the alternative, all public access to ski runs across mine dumps or tailings areas shall be curtailed whenever natural snow cover over the top of any part of such areas is less than three feet.

14. A study shall be prepared to determine the effects of additional snow making, avalanche control and vegetation removal for ski runs on runoff, stream erosion, and flooding all the way from the proposed project to Utah Lake along American Fork River.

15. Construction plans shall be site specific and shall include contaminated soil analysis, geotechnical studies, slope stability plans, erosion control plans, long-term storm water and snowmelt management plans, etc. and shall be reviewed and approved by an appropriate and responsible County, State or Federal agency.

16. Sewage, garbage, and human waste shall be contained, hauled, and disposed of outside of the American Fork River drainage without spillage of any kind.

17. All construction and permanent access roads and trails shall be designed and constructed to minimize steep fills, all exposed slopes shall be revegetated, and the erosion best management practices shall be implemented and maintained.

18. Specific hydrogeologic studies shall be completed demonstrating that any potential contamination in the proposed expansion area will not travel to the American Fork City's culinary water spring sources or to other culinary water spring sources in American Fork Canyon operated by the US Forest Service and National Park Service. Studies shall meet the standards of the State of Utah Division of Drinking Water for drinking water source protection.

19. Purchase adequate water rights for snowmaking activities and prepare and receive approval of change applications allowing the diversion of water for snowmaking. Obtain the approval of the American Fork Irrigation Company, Lehi Irrigation Company, and Pleasant Grove Irrigation Company for these change applications since they are the primary water right owners in American Fork Canyon. If shares of irrigation water are utilized for these change applications they shall be obtained from the three irrigation companies in a percentage equal to their decreed split in water right ownership of American Fork River. Commit that any water right change applications shall be for snowmaking only, shall only divert water from the American Fork River drainage, and shall only make snow within the American Fork River drainage. Snowmaking facilities and equipment shall be open to inspection at all times to the three irrigation companies. Flow measurement devices shall be installed at the diversion locations and annual reports submitted to the Division of Water Rights and the three irrigation companies that show the total monthly water diverted. Annual reports shall include yearly calibration reports on the meter. Water Rights change applications shall be completed and approved by the Division of Water Rights and the three irrigation companies prior to construction of any new snowmaking facilities.

20. All studies, designs, and construction plans and construction work shall be completed and overseen by licensed professionals in the applicable fields of work. All reports, plans, testing, etc. shall be reviewed by and approved by the governmental agency associated. American Fork City and other

entities potentially impacted by water quality in the American Fork River shall have reasonable opportunity to review and comment on all reports, plans, testing, etc.

21. Support shall be required for a request from affected downstream water users that the State of Utah Division of Water Quality classify the American Fork River and its tributaries upstream of the Mouth of American Fork River as beneficial use class 1C.

Specific Request for Condition for City Review and Comments

The City further makes a specific request that the City be provided all of the study and design information generated in meeting the above conditions and be provided at least 60 days for review and comment prior to approval of any permit.

Request for Revision of the Utah County Land Use Ordinance to Include Preliminary Design

Finally, the City requests that the County Land Use Ordinance be revised for projects having potential of significant impact to the public welfare to provide only tentative approval to a project plan contingent upon the approval of a preliminary design plan. The preliminary design plan submittal and review would act as an additional review step required prior to the final approval of a conditional use permit. The applicant has taken significant advantage of the minimal plan requirements in the ordinance. Furthermore, it is recommended that the ordinance be revised to prevent short circuiting of the public review process in the future.

The City very much appreciates your consideration of these requests.

Sincerely,

James H. Hadfield
Mayor, American Fork City